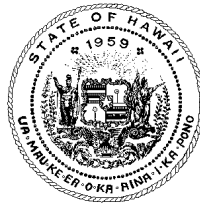


DAVID Y. IGE
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No. _____

TESTIMONY ON SENATE BILL 2305
RELATING TO THE COMPREHENSIVE OFFENDER REENTRY SYSTEM.

by
Max N. Otani, Director
Department of Public Safety

Senate Committee on Way and Means
Senator Donovan M. Dela Cruz, Chair
Senator Gilbert S.C. Keith-Agaran, Vice Chair

Senate Committee on Judiciary
Senator Karl Rhoads, Chair
Senator Jarrett Keohokalole, Vice Chair

March 2, 2022, 9:30 a.m.
Via Videoconference

Chairs Dela Cruz and Rhoads, Vice Chairs Keith-Agaran and Keohokalole, and Members of the Committees:

The Department of Public Safety (PSD) supports the passage of Senate Bill (SB) 2305, Relating to the Comprehensive Offender Reentry System, which corrects the language in Section 353L-3, Hawaii Revised Statutes (HRS).

PSD notes that the language being amended in this measure was codified in Act 179, Session Laws of Hawaii 2019 (Part 1, Section 2). The Department agrees with the need for the correction.

Thank you for the opportunity to provide testimony on SB 2305.

TESTIMONY IN SUPPORT OF SB 2305

TO: Chair Rhoads, Vice Chair Keohokalole, & JDC Committee Members
Chair Dela Cruz, Vice Chair Keith-Agaran, & WAM Committee Members

FROM: Nikos Leverenz
Grants & Advancement Manager

DATE: March 2, 2022 (9:30 AM)

Hawai'i Health & Harm Reduction Center (HHRC) **supports** SB 2305, which clarifies that the comprehensive offender reentry system provides programs and services that result in the timely release of inmates on parole when the **minimum** term, rather than the maximum term, has been served by the inmate.

HHRC's mission is to reduce harm, promote health, create wellness, and fight stigma in Hawai'i and the Pacific. We work with many individuals impacted by poverty, housing instability, and other social determinants of health. Many have behavioral health problems, including those related to substance use and mental health conditions. Many of our program clients and participants have also been deeply impacted by trauma, including histories of physical, sexual, and psychological abuse.

Thank you for the opportunity to provide testimony.

COMMUNITY ALLIANCE ON PRISONS

P.O. Box 37158, Honolulu, HI 96837-0158

Phone/E-Mail: (808) 927-1214 / kat.caphi@gmail.com



COMMITTEE ON JUDICIARY

Senator Karl Rhoads, Chair

Senator Jarrett Keohokalole, Vice Chair

Thursday, March 3, 2022

9:30 AM

SB 3344 – STRONG SUPPORT FOR TRANSPARENCY & ACCOUNTABILITY RELATING TO SOLITARY CONFINEMENT - OR ITS EUPHEMISMS

Aloha Chair Rhoads, Vice Chair Keohokalole, and Members of the Committee!

My name is Kat Brady and I am the Coordinator of Community Alliance on Prisons, a community initiative promoting smart justice policies in Hawai'i for more than two decades. This testimony is respectfully offered on behalf of the more than 4,069 Hawai'i individuals living behind bars under the "care and custody" of the Department of Public Safety or the corporate vendor on any given day. We are always mindful that 1,112 of Hawai'i's imprisoned people are serving their sentences abroad - thousands of miles away from their loved ones, their homes and, for the disproportionate number of incarcerated Kanaka Maoli, far, far from their ancestral lands.

Community Alliance on Prisons strongly supports transparency and accountability when addressing management of our jails and prisons as well as those of the corporate vendors to whom we sell our people. There is a huge national movement called UNLOCK THE BOX that seeks to ban this cruel and inhumane punishment that produces life-long effects on a person during incarceration and post release. There are many misconceptions and myths about keeping human beings in isolation:

MISCONCEPTION #1 Conditions in segregated housing are stark but not inhumane

MISCONCEPTION #2 Segregated housing is reserved only for the most violent

MISCONCEPTION #3 Segregated housing is used only as a last resort

MISCONCEPTION #4 Segregated housing is used only for brief periods of time

MISCONCEPTION #5 The harmful effects of segregated housing are overstated & not well understood

MISCONCEPTION #6 Segregated housing helps keep prisons and jails safer

MISCONCEPTION #7 Segregated housing deters misbehavior and violence

MISCONCEPTION #8 Segregated housing is the only way to protect the vulnerable

MISCONCEPTION #9 Safe alternatives to segregated housing are expensive

MISCONCEPTION #10 Incarcerated people are rarely released directly to the community from segregated housing

The Eighth Amendment to the United States Constitution protects individuals from "cruel and unusual punishment." Although the United States Supreme Court has affirmed that solitary

confinement is a form of punishment subject to scrutiny under Eighth Amendment standards, most federal courts have been unreceptive to limiting its use. This may be, in part, because in order to demonstrate an Eighth Amendment violation, an incarcerated person must satisfy a particularly onerous two-part test: first, his or her alleged suffering must be reasonably serious; and second, prison officials must have acted with “deliberate indifference to the prisoner’s health and safety” – where “deliberate indifference” is only proved if it is shown that prison officials “kn[e]w that inmates face[d] a substantial risk of serious harm,” but “fail[ed] to take reasonable measures to abate it.” As a result, successful Eighth Amendment claims regarding prison conditions have usually involved the direct action or inaction of prison officials, including medical indifference, failure to protect, and excessive use of force, rather than an overall challenge to general penal practices, such as solitary confinement.¹

There is a large body of research on the mental health and medical effects of isolating people from the general population. Drs. Craig Haney and Terry Kupers have done amazing and informative research on the effects of isolating human beings. Here is some information on the mental and physical health effects of this sanction².

Mental health effects

A large body of research shows that solitary confinement causes adverse psychological effects and increases the risk of serious harm to individuals who experience it. According to an article in the *Journal of the American Academy of Psychiatry and the Law*, isolation can be as distressing as physical torture.

The BJS report that approximately 25% of people in prison and 35% of those in jail who had spent 30 days or longer in solitary confinement during the previous year had symptoms of serious psychological distress. The rates were similar for those who only spent 1 day in isolation.

Humans require social contact. Over time, the stress of being isolated can cause a range of mental health problems. According to Dr. Sharon Shalev, who authored *A Sourcebook on Solitary Confinement* in 2008, these problems may include: anxiety and stress, depression and hopelessness, anger, irritability, and hostility, panic attacks, worsened preexisting mental health issues, hypersensitivity to sounds and smells, problems with attention, concentration, and memory, hallucinations that affect all of the senses, paranoia, poor impulse control, social withdrawal, outbursts of violence, psychosis, fear of death, self-harm or suicide.

Research indicates that both living alone and feelings of loneliness are strongly associated with suicide attempts and suicidal ideation. Additionally, many individuals who experience confinement become incapable of living around other people.

Physical health effects

Most studies focus on the psychological effects of solitary confinement. However, psychological trauma and loneliness can also lead to physical health problems. **Studies indicate that social isolation increases the likelihood of death by 26–32% .**

According to Dr. Shalev’s *A Sourcebook on Solitary Confinement*, the recorded physical health effects of solitary confinement include: chronic headaches, eyesight deterioration, digestive problems, dizziness, excessive

¹ SOLITARY CONFINEMENT: Common Misconceptions and Emerging Safe Alternatives, VERA Institute of Justice, May 2015. https://www.vera.org/downloads/publications/solitary-confinement-misconceptions-safe-alternatives-report_1.pdf

² What are the effects of solitary confinement on health? <https://www.medicalnewstoday.com/articles/solitary-confinement-effects>

sweating, fatigue and lethargy, genitourinary problems, heart palpitations, hypersensitivity to light and noise, loss of appetite, muscle and joint pain, sleep problems, trembling hands, and weight loss

A lack of physical activity may also make it difficult to manage or prevent certain health conditions, such as diabetes, high blood pressure, and heart disease.

A prolonged lack of sunlight can cause a vitamin D deficiency, which can put older adults at risk of fractures and falls. These injuries are among the leading causes of hospitalization and death for older adults.

A letter received by Community Alliance on Prisons from one of our people in Arizona describes what it is like to be far from home, isolated from the general population, with nothing for 18 hours a day or more.

"I have been incarcerated for five years and out of those 5 years I have done 2 and one-half years in solitary confinement/restrictive housing. When I refer to "restrictive housing" I am meaning being locked down for 18 plus hours a day. That two and a half years have taken a drastic toll on my mental state. I had suicidal train of thoughts a couple times & major anxieties & depression.

Here in Saguaro Correctional Center they have a tactic an insidiously cruel & inhumane practice called property and recreation restrictions. Saguaro Correctional Center will place inmates on property restriction for doing or saying things they don't like. ... CoreCivic uses this tactic widely, constantly, & consistently against Hawaii inmates in segregation. It's used as a weapon, as punishment & even as disciplinary sanctions for misconducts with the segregation units.

Often we are on property restriction from 7 to 30 days. It is often used in conjunction with recreation restriction which an inmate is not allowed to have recreation at all. Hawaii segregation inmates can be put on property restriction for any reason & at any time, for any excuse. It is used arbitrarily & harshly. It is used at the administrations discretion & whim with no due process afforded whatsoever.

Prior to being placed on property restriction we are not afforded a hearing or given notice or any sort of paperwork detailing the reasons for being put on property restriction. Once one is arbitrarily placed on property restriction it is unappealable & unchallengeable."

How can we allow such violations of basic constitutional rights in our names?

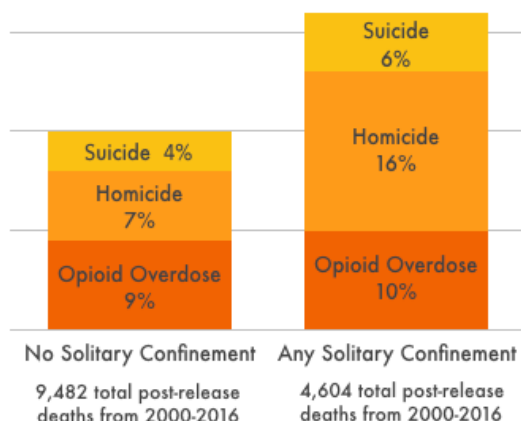
The reality that must be faced is that Hawai'i allows CoreCivic to 'operate' their prison their way. And then Hawai'i's people are burdened with all the costs associated with their way of operating their prison.

At the International Symposium on Solitary Confinement, researchers and formerly incarcerated people made it clear that isolation causes severe and permanent damage and that any "positive" benefits correctional institutions gain by using solitary confinement are outweighed by the severe and often permanent damages caused by prolonged isolation. Recent studies show that time spent in solitary confinement shortens lives, even after release, and speakers at the International Symposium emphasized various other ways solitary causes irreparable harm.

Community Alliance on Prisons has been reporting on the conditions in Saguaro at the monthly Hawai'i Correctional Systems Oversight Commission meetings. Sadly, without staff, this all-volunteer Commission's work has been severely stymied. They have sent lists of applicants for the Coordinator position (that is in statute) they have interviewed over the last 2 years with no response from the governor.

Solitary confinement increases the risk of premature death after release

Among people who died after release from prison, those exposed to solitary confinement were more likely to die from suicide, homicide, or opioid overdose.



Premature deaths — by suicide, homicide, or opioid overdose — after release from prison are *more likely* for those that spent any amount of time (even one day) in solitary confinement than those who never did.³

We have reviewed Policy No. Cor.11.01⁴ and this bill and we support SB 3344’s calls for transparency and accountability in how the state itself honors the humanity of the people in its care and custody and how it protects our people in the care and custody of its corporate vendors. We wonder how COR.11.01 is implemented and monitored since those records are not public.

We support transparency and accountability as provided in Section 2.(e) starting on page 17 line 13 and everything through page 20 line 10, especially **(5) Require the posting of quarterly reports on the department's official website.**

When we consider that the state incarcerates people for causing harm; it is unconscionable that the state itself inflicts long-lasting harm on the people it incarcerates. We long for the day when included in the training of people working with persons in an extremely stressful environment there is an emphasis on **FIRST, DO NO HARM.**

This bill follows the Department of Justice guidance on restrictive housing⁵.

In closing, there is a robust scientific literature that has established the negative psychological effects of solitary confinement. The empirical findings are supported by a theoretical framework that underscores the importance of social contact to psychological as well as physical well-being. In essence, human beings have a basic need to establish and maintain connections to others and the deprivation of opportunities to do so has a range of deleterious consequences. These scientific conclusions, as well as concerns about the high cost and lack of any demonstrated penological

³ The research is clear: Solitary confinement causes long-lasting harm, by Tiana Herring, December 8, 2020. https://www.prisonpolicy.org/blog/2020/12/08/solitary_symposium/

⁴ Department of Public Safety, Corrections Administration Policies and Procedures, Administrative Segregation and Disciplinary Segregation, Policy No. Cor.11.01. <https://dps.hawaii.gov/wp-content/uploads/2014/12/COR.11.01.pdf>

⁵ U.S. Department of Justice Report and Recommendations Concerning the Use of Restrictive Housing EXECUTIVE SUMMARY January 2016. <https://www.justice.gov/archives/dag/file/815561/download>

purpose that solitary confinement reliably serves, have led to an emerging consensus among correctional as well as professional, mental health, legal, and human rights organizations to drastically limit the practice.⁶

Community Alliance on Prisons urges the committee to remember that most incarcerated people will come home someday. What kind of citizens and neighbors are we preparing in these institutions that are ostensibly about rehabilitation? **Some jurisdictions are experimenting with making conditions more humane and less solitary.**

Colorado now requires that incarcerated people held in its Management Control Unit receive four hours of time outside their cell each day.

New York State, as part of a legal settlement, gives 16- and 17-year-olds in segregated housing at least five hours of exercise and programming outside of their cells five days per week.

Maine requires that incarcerated people in segregated housing receive group recreation, counseling sessions, and opportunities to increase privileges through good behavior, as well as greater access to radios, televisions, and reading materials.

Some jurisdictions have developed different levels of segregated housing, including “step-down” incentive programs that are structured in progressive phases that provide increasing privileges — such as more time out of the cell, the opportunity to participate in group activities, television in the cell, and additional reading materials — for sustained compliance to facility rules.

Pennsylvania, Washington, and New Mexico have all created step-down programs for gang members held in segregated housing.

Washington has an Intensive Transition Program for incarcerated people with chronic behavior problems who are frequently placed in segregated housing, in which they move through a curriculum in stages, progressively learning self-control and gradually engaging in opportunities to socialize until they are ready to return to the prison’s general population.

Michigan operates an Incentives in Segregation pilot project, in which incarcerated people work through six stages (each stage requiring different tasks and bestowing additional privileges) over several months.

The **Virginia** Department of Corrections has developed a successful step-down program for incarcerated people in administrative segregation that uses evidence-based practices first developed in the community corrections setting. Since 2011, the program has reduced the number of incarcerated people in administrative segregation by 53 percent and the number of prison incidents by 56 percent.

Please support these changes that promote transparency and accountability in how the people in the care and custody of the state are treated, no matter where they are.

Mahalo for this opportunity to share our many years of research into this inhumane practice.

⁶ Restricting the Use of Solitary Confinement, Craig Haney, **Annual Review of Criminology**, Vol. 1:285-310 (Volume publication date January 2018), First published as a Review in Advance on November 3, 2017.
<https://doi.org/10.1146/annurev-criminol-032317-092326>

SB-2305

Submitted on: 2/27/2022 7:08:53 PM

Testimony for JDC on 3/2/2022 9:30:00 AM

Submitted By	Organization	Testifier Position	Remote Testimony Requested
Gerard Silva	Individual	Oppose	No

Comments:

If they are sentenced to 5 years they should serve 5 years. We the people are tired of the judicial system being nothing but a revolving DOOR!!!